ITEM: 8

SUBJECT: Workshop on Administrative Draft NPDES General Permit and Waste Discharge Requirements General Order for Milk Cow Dairies

BOARD ACTION: *No action required by the Board: Workshop only to receive comments on Administrative Draft NPDES General Permit and Waste Discharge Requirements General Order for Milk Cow Dairies*

BACKGROUND: In January 2003, the waiver program under which most confined animal facilities in the Central Valley Region operated expired. On 15 December 2002, U.S. EPA promulgated new regulations for Large Concentrated Animal Feeding Operations (CAFOs). These new federal regulations require all Large CAFOs to apply for coverage under an NPDES permit. In January 2003, staff released an initial administrative draft NDPES General Permit for CAFOs to reflect the new federal regulations. Comments on that initial draft focused on the need to narrow the applicability of the permit to similar types of operations, strengthen groundwater protection, assure CEQA compliance, consider the undue burden that extensive monitoring and reporting places on operators, and incorporate environmental stewardship programs as an alternative to regulation.

On 28 September 2004, staff released a second administrative draft permit (draft General Order), which is the subject of this workshop. This draft General Order was narrowed in scope to apply only to existing milk cow dairies that are defined under the federal regulations as Large CAFOs (700 or more mature dairy cows). Dairies represent over 90% of the confined animal facilities in the Region.

The draft General Order includes requirements for protection of both surface water and groundwater. For surface water protection, the draft General Order requires each dairy to demonstrate that they: have adequate waste containment to prevent discharges except under conditions allowed by the federal regulations; have adequate flood protection to comply with state regulations; can operate and maintain their facilities in compliance with the permit; and can manage their waste applications to land application areas in a manner that will minimize or eliminate the transport of nutrients to surface water.

For groundwater protection, the draft General Order requires each dairy to demonstrate that: there are no cross-connections that would allow the backflow of wastewater into a water supply or irrigation supply wells; the corrals, animal housing areas, and manure and feed storage areas are designed, constructed, operated, and maintained to divert all wastewater and storm water runoff to the retention ponds and minimize infiltration of water into the underlying soils; and the application of solid manure and manure-laden wastewater to land application areas will not cause groundwater limitations to be exceeded.

The draft General Order requires monitoring to ensure that the facility is in compliance with the surface water and groundwater limitations. Surface water monitoring requirements include monitoring of: discharges to surface water and upstream and downstream samples during discharges from the production area; and any discharges of storm water from the production area to surface water. Groundwater monitoring will be used to assess the adequacy of waste management and land application techniques. Monitoring requirements include quarterly groundwater monitoring for dairies with 1,300 or more mature dairy cows. This monitoring program will be phased in over a 5-year period with the

largest facilities being the first to monitor. The need to monitor groundwater and the schedule by size is based on the volume and character of waste generated at these large dairies, the results of existing groundwater monitoring, and a review of the statewide minimum regulations for confined animal facilities.

Staff has received numerous comments on the draft General Order, the most significant of which are that the costs for dairymen to implement the permit are excessive, incentives should be provided for environmental stewardship programs such as the California Dairy Quality Assurance Program (CDQAP), groundwater monitoring requirements should be reduced or eliminated, certifications by registered professionals should be narrowed in scope, the number of required inspections and reporting should be reduced, and stakeholder groups should be formed to revise the Waste Management Plan and to develop technical standards for nutrient management.

ISSUES:

Written comments received on the draft General Order request the Board to consider the following when drafting the tentative General Order:

- The costs for each dairyman to implement the draft General Order are excessive and may put some dairymen out of business.
- The draft General Order should include incentives for dairymen to become certified under the CDQAP to prevent the elimination of this voluntary program and also to help leverage state resources.
- Groundwater monitoring is a considerable expense and could be eliminated if alternatives such as vadose zone monitoring or monitoring the timing and application rates of manure and wastewater were implemented. If groundwater monitoring is required, it should be delayed and it should be based on risk rather than on dairy size.
- The professional certifications required for the Waste Management Plan should focus on design and performance standards rather than ability of the facility to protect surface water or on facility maintenance.
- The excessive monitoring and reporting requirements could be reduced by conducting and reporting inspections by exception rather than daily, weekly, etc., reducing the number of constituents analyzed, and maintaining laboratory analyses onsite rather than submitting them to the Board.
- The formation of stakeholder groups could be helpful in revising the Waste Management Plan and to develop technical standards for nutrient management. Stakeholders could include the Regional Board, State Water Resources Control Board, U.S. EPA, University of California Cooperative Extension Service, Natural Resources and Conservation Service, and CDAQP.

Mgmt. Review _____
Legal Review _____